

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 213 of 1987
with
CIVIL APPLICATION No 1560 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHIRUBHAI ALIAS HARSHADBHAI DAHYABHAI

Versus

RAMCHANDRA DAHYABHAI DESAI

Appearance:

MR GN DESAI for Appellants

MR SH SANJANWALA for Respondent

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/09/97

ORAL JUDGEMENT

This appeal is directed against the order dated June 22, 1987 passed by the learned Civil Judge (S.D.), Valsad, allowing the interim injunction application filed by the respondent-plaintiff in Civil Suit No. 162 of 1986. By the order under appeal, the trial court cancelled the earlier order of status quo and restrained

the defendant from entering the suit lands and from interfering the plaintiff in the enjoyment of the suit lands till final disposal of the suit.

2. While admitting the appeal, this Court passed order dated July 17, 1987, directing the status quo to be maintained. The order was thereafter continued from time to time but by order dated August 12, 1987, this Court refused interim relief by order passed in Civil Application No. 1560 of 1987.

4. Even while refusing the interim relief, this Court had prima-facie accepted the reasons given by the trial court particularly, the registered partition deed as well as the will executed by the uncle of the parties. No ground is made out to interfere with the order under appeal at this stage. This Court need not disturb the interim injunction granted by the trial court which has been operating for the last 10 years.

5. In view of the facts and circumstances of the case, the order under appeal does not call for any interference. The appeal therefore deserves to be dismissed. Accordingly, the appeal is dismissed. But in view of the fact that the suit is pending since 1986, the trial court is directed to hear and decide the suit as expeditiously as possible and preferably by March 31, 1998.

6. Subject to the aforesaid direction, the appeal as well as the Civil Application are accordingly dismissed with no order as to costs.

Amp/-